

HOME IMPROVEMENT

Fixing England's broken planning system once and for all

By John Myers

SUBMISSION

EXECUTIVE SUMMARY

- The *Planning for the Future* White Paper presents a once-in-a-generation opportunity to reform England's antiquated land use planning system.
- The United Kingdom has failed to build enough housing near to where people want to live, reducing job opportunities, and driving up housing prices. This is because of a land use system that fails to allow sufficient high quality development.
- Fixing England's planning system would help address overcrowding, intergenerational unfairness and level up access to good jobs. It could even boost GDP by more than 20% in a decade, allowing the United Kingdom to overtake Germany's economy.
- Politics is the critical obstacle to more housing: understandably, many homeowners do not want unsuitable new developments near them. If the Government is to succeed where previous reform efforts have failed, they will need to emphasize win-win solutions that ensure more supply of housing while maintaining public support.
- The White Paper has rightly concluded that transitioning to a more predictable and efficient rules-based system – with locally-selected zones of different kinds – can reduce the costs of development, and that strengthening design quality can help build popular support for a good supply of homes.
- The targets proposed in the White Paper are highly ambitious but many concerns are unwarranted. Widely published estimates exaggerate many local requirements by failing to account for constraints proposed in the White Paper, such as for green space or historic buildings.
- Nevertheless, concerns that targets are being forced on unwilling local councils combined with lessened local discretion risk sparking opposition. If the reforms are to be sustained, it will be essential to combine them with policies to build public support for building more houses.
- If the Government wants to increase the supply of housing in high price areas while maintaining public support, they should:
 - **Introduce street and block votes:** Street or block residents should be able to set design rules to ensure high quality and, if they choose, graceful densification. This is as mooted in the White Paper. If a street opts for greater density, all the homeowners can benefit from a capital gain in the value of their property. That would ensure building is win-win for residents, enabling the Government to reach ambitious targets. This



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approach should be immediately implemented in a number of pilot areas with high prices.

- **Enable land value tax on future large sites:** Allowing councils to gradually introduce a land value tax on future large sites would give councils and local people more confidence that targets will not be missed for reasons beyond their control. The tax could be assessed by the ‘Harberger’ method, where the landowner sets the value of the undeveloped portion of the site but with the proviso that the local authority can purchase the land at the price stated. That would also help test a potential reform for the future abolition of SDLT.
- **Publish target allocations:** Publish indicative allocations of the proposed new local housing requirements, showing how they will be adjusted for constraints such as green belt and historic properties.

ABOUT THE AUTHOR

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This is a joint submission to the Government’s White Paper consultation, *Planning for the future*, on behalf of the Adam Smith Institute and London YIMBY.

Housing Secretary Robert Jenrick's new planning white paper, *Planning for the Future*, is exciting news for those who care about ending the housing shortage and reforming the planning system.

Our discretionary planning system is highly unusual by international standards. It has horribly underperformed at the task of providing plentiful and high quality housing within reach of high wage job opportunities to allow more productive firms to grow. It has also permitted swathes of unattractive development.

Inadequate and inelastic supply of housing has allowed prices to rise far above the cost of building more homes in many places, even after pricing externalities. The last available numbers from the Office for National Statistics indicate that the total value of the UK's housing stock exceeded the cost of replacing it today by £3.7 trillion pounds, or approximately two-fifths of the nation's stated net worth on the national balance sheet.¹ In a well-supplied market, that number would be zero or negative.² Bad regulation has caused an eye-watering distortion, which has caused profound damage to welfare.³

The respected economic historian Professor Nicholas Crafts estimated that fixing the planning system would boost annual growth by two percentage points for an entire decade.⁴ That would mean GDP more than 20% higher at the end of that period than it would otherwise have been, which would take UK value added per head above that of Germany by that point, assuming normal growth otherwise. Not only that, much of that growth would involve well-paid new manual semi-skilled jobs, as in the building boom in the 1930s.

That estimate is consistent with US studies, which have found large effects even though the distortions are smaller in the United States, where Chang-Tai Hsieh and Enrico Moretti estimated that restricting housing in high productivity cities reduced growth by 36% from 1964 to 2009.⁵ Gilles Duranton and Diego Puga found that relaxing planning regulations in just the three most productive US cities would raise national welfare by 8% in real terms.⁶

¹ UK Office for National Statistics, "CGLK" and "MJF8" (datasets) under the definitions used up to 2015.

² Glaeser, Edward, and Joseph Gyourko. "The Economic Implications of Housing Supply." *Journal of Economic Perspectives* 32, no. 1 (February 2018): 3–30. <https://doi.org/10.1257/jep.32.1.3>.

³ Myers, John. "The Plot against Mercia." *Unherd*, September 14, 2020. <https://unherd.com/2020/09/the-plot-against-mercia/>.

⁴ Crafts, Nicholas. "Liberalise Planning and Housebuilding Can Revive Growth." *City A.M.* May 1, 2013. <https://web.archive.org/web/20130501044423/https://www.cityam.com/article/liberalise-planning-and-housebuilding-can-revive-growth>.

⁵ Hsieh, Chang-Tai, and Enrico Moretti. "Housing Constraints and Spatial Misallocation." *American Economic Journal: Macroeconomics* 11, no. 2 (April 2019): 1–39. <https://doi.org/10.1257/mac.20170388>.

⁶ Duranton, Gilles and Puga, Diego. 2019. "Urban Growth and Its Aggregate Implications." NBER Working Paper 26591. *National Bureau of Economic Research*, Cambridge, MA.

It is the shortage of homes in certain places that has led to an appalling decline in labour mobility.⁷ That in turn has led to lower wages in some areas. Part of that is due to shockingly counterproductive steps by central planners to deliberately damage economies such as that of the West Midlands.⁸ When people are free to move to the best job opportunities and higher wages, wages will adjust to level up the country. In the opposite direction, the Statute of Labourers 1351 made it more difficult for labourers to move around the country, with the deliberate intention of holding wages down. That is what our current planning system has unintentionally achieved: holding down wages throughout the country.⁹

The White Paper confirms that we critically need to build more housing within reach of the best job opportunities. It follows the overwhelming weight of economic evidence and examples from our own history and from around the world, in dismissing the arguments of supply-denialists that plentiful supply is unnecessary, implausible and/or undesirable.

The technical Task Force working on the White Paper have done a solid job in response to the question: how would you make this system cheaper, faster, and produce more homes in the near future? So we will move towards a faster, more certain system, more like the ‘zoning’ systems of the US and continental Europe, although we must be careful to ensure that it performs better than many of them where little or no new housing is built. We will see more use of software, and less legalistic wrangling.

The White Paper envisages a world where democracy is moved to up front in the planning process, so that plans are simpler with clear rules associated with each point on the map so people have a strong reason to be involved with setting those rules for their local area. That will avoid the current situation, where local people are repeatedly disappointed when they object to an application, only to discover that a plan written years before means that the application will be approved on appeal.

The underlying problem is that, unlike all the other laws governing property and markets, the planning system is not designed to achieve win-win outcomes that align incentives with control and improve overall wealth.

⁷ Judge, Lindsay. “Moving Matters.” London: *Resolution Foundation*, June 2019. <https://www.resolutionfoundation.org/publications/moving-matters-housing-costs-and-labour-market-mobility/>.

⁸ Myers, John. “The Plot against Mercia.” *Unherd*, September 14, 2020. <https://unherd.com/2020/09/the-plot-against-mercia/>.

⁹ Ganong, Peter, and Daniel Shoag. “Why Has Regional Income Convergence in the U.S. Declined?” *Journal of Urban Economics* 102 (November 2017): 76–90. <https://doi.org/10.1016/j.jue.2017.07.002>.

Since 1947, there have been repeated failed attempts to fix housing shortages. The reason for their failure is simple: the planning system protects homeowners from most of the negative spillover effects of all the development that would be economic at today's prices, and homeowners are approximately two-thirds of voters. To overcome that history of repeated failures, reform needs to be cleverly designed to succeed and endure.

THE HISTORY OF FAILED PLANNING REFORMS

There are three main failure modes for planning reform demonstrated by attempts since 1947. The first is to succumb to the 'blob' and fail to do anything. The second is to follow well-intentioned but naive proposals that are unworkable or useless.¹⁰ The third is to heed rent seekers who just want approval for their developments, or more work for their services business, and have little real interest or experience in what might durably fix the system.

English planning reform proposals generally fail to solve for the politics, won't work, or won't last. The White Paper has excellent proposals to increase certainty in the system. Of course, there are many places overseas with clear and predictable zoning systems but very poor housing supply, and so initially the main drivers of increased supply in England will probably be the new revised targets and enforcement of them.

Fixing the planning system is profoundly different in fundamental ways to the Apollo or Manhattan programmes, or running a successful business. Rather than launching a single venture, it involves fixing a set of legal rules to let a market economy function better. If the rules are improved then more houses will be built.

Fixing the planning system is more like enabling markets in the former Soviet Union.¹¹ After all, the 1947 planning system was based on Soviet principles of central planning.¹² To enable the market to work better, we need a more workable set of rules. If we achieve that then in the long term targets can be phased out, as they were in the Soviet Union, because the operation of the market will mean they are not needed.

At this point no one can be certain what reform will work best, because no country in a situation comparable to ours has ever truly fixed its planning system. All we can do is conduct multiple randomized controlled trials based on reasoned judgments

¹⁰ In terms of political science and the study of public policy, they generally lack a competent 'political feasibility analysis'. Webber, David J. "Analyzing political feasibility: political scientists' unique contribution to policy analysis." *Policy Studies Journal* 14, no. 4 (June 1986): 545–53. <https://doi.org/10.1111/j.1541-0072.1986.tb00360.x>.

¹¹ Heller, Michael. *The Gridlock Economy: How Too Much Ownership Wrecks Markets, Stops Innovation, and Costs Lives*. New York: Basic Books, 2008.

¹² Breach, Anthony. "Our Soviet-Style Planning System Is Designed to Fail – Let's Rip It up and Start Again," *CapX*, 24 June, 2020, <https://capx.co/our-soviet-style-planning-system-is-designed-to-fail-lets-rip-it-up-and-start-again/>.

of what might work better and the history of all the ideas that have proven politically impossible or not durable.¹³

Most English reform proposals profoundly underestimate the scale of the political problem, or naively assume that a completely different system can be transplanted to a country where residents who mainly own hugely expensive, unusually historic and durable housing, on a relatively densely populated island, have accrued seven decades' expectations of essentially no change. Seventy years of failed attempts to fix English planning demonstrate the difficulty.

It is unhelpful and bad economics simply to point, as some do, to a particular system of land use rules in another country that works better than the current English system and then, without showing how a system could durably function or receive popular support in the United Kingdom, to assert that it can (a) plausibly be adopted in England given political realities and (b) will have a similar effect here. Yet that mistake is endlessly repeated, decade after decade.

What is worse, adoption of reforms without thinking through whether they will be durable has often led to a reduction in housing development in the long term. For example, imposition of development against local wishes has substantially increased the incentives for residents to press for designation as a conservation area, with the result that most of some local authority areas have been given conservation area status – large expanses of land where little or no additional housing can be built.

In modern times no developed country or region with expensive housing, green belts, a large stock of historic buildings, no earthquakes and a high percentage of homeowners has managed to completely fix land use regulation.

High wage historic European cities mainly have poor supply, but add on the edges because they have no entrenched green belt. The English green belt forms a convenient Schelling point – a focal point around which people can easily coordinate their actions – for political resistance to housing, and has, over decades, given local residents strong accrued expectations of no change.¹⁴ Tokyo has earthquakes and everyone views buildings as temporary, so allowing more is easy. Housing supply in the San Francisco Bay Area is arguably worse than London. Even New York City, which has zoning, could have much better supply and has nearly used up its current zoned capacity. Over time, what is permitted under the zoning rules has been tightened so that 40% of the current buildings in Manhattan could not legally be built today.¹⁵ Zoning is not a panacea, although it helps improve certainty, which reduces costs.

¹³ Leigh, Andrew. "Randomised Policy Trials." *Agenda - A Journal of Policy Analysis and Reform* 10, no. 4 (2003): 341–54. <https://EconPapers.repec.org/RePEc:acb:agenda:v:10:y:2003:i:4:p:341-354>

¹⁴ To some extent, the English green belt is therefore an example of path dependence in policy. Pierson, Paul. "Increasing Returns, Path Dependence, and the Study of Politics." *American Political Science Review* 94, no. 2 (June 2000): 251–67. <https://doi.org/10.2307/2586011>.

¹⁵ Bui, Quoc Trung, Matt A.V. Chaban, and Jeremy White. "40 Percent of the Buildings in Manhattan Could Not Be Built Today." *New York Times*, May 20, 2016. <https://www.nytimes.com/interactive/2016/05/19/upshot/forty-percent-of-manhattans-buildings-could-not-be-built-today.html>.

No wealthy country with a high proportion of homeowners currently does land use regulation well. All the much-vaunted ‘good’ countries have housing within reach of the best jobs that is far more expensive than it needs to be. And England is starting from a much more difficult position, with a more historic housing stock that many people want to preserve, a more densely populated country with more agglomeration effects, and with an entrenched green belt that has long defeated ambitions to reform it.

There are places such as Houston which are achieving graceful suburban intensification, but Houston has a lower homeownership rate with relatively low house prices, making homeowners less risk averse, and it never had a zoning system.¹⁶ English homeowners will not give up their protections without an epochal fight. Houston gives no path for England.

If we want to truly fix the English planning system, we have to do better than other countries, because they have not fixed theirs and we have a harder problem. We cannot simply copy them. Zoning, design codes, and bigger development levies will not be not enough on their own.¹⁷ We have to enable different mechanisms to work – ones that can literally find local majorities to support more building.

Targets have been imposed and removed in England at least twice before; they were most recently abolished by a Conservative secretary of state, Eric Pickles, in 2010.¹⁸ It is tough to achieve political support for and maintain them. It will be key to implement policies that add housing without backlash.

WHY HAVE ANY LAND USE RULES?

The English planning system has survived many reform attempts since 1947 because it controls what economists call ‘externalities’ – the spillover effects of development on other people.

There are two main economic justifications for land use rules: externalities, and coordination problems.

In practice, the supertall towers on tiny sites in Manhattan and indeed most English development before 1939 prove that surprising amounts of development can happen without government coordination of land use. Many perceived coordination problems arise from failure to properly price publicly provided resources such as roads or public transport, which are congested because they are priced below

¹⁶ Houston also has frequent hurricanes and homeowners expect that they may have to rebuild their home. In that respect, it is much more comparable to Tokyo, with its frequent earthquakes.

¹⁷ The authors of the new National Design Code recognized, in a conversation with the author, that international practice shows that it will generally be politically controversial for a local authority to try to allow substantial densification through a design code. The most realistic suggestion for achieving densification was to draw up a specific design code for each single plot to be densified. That will be costly, time-consuming and does not solve the political or other problems.

¹⁸ Conservative Local Government Secretary Eric Pickles in 2010 abolished ‘the previous government’s failed Soviet tractor style top-down planning targets’, calling them ‘a terrible, expensive, time-consuming way to impose house building’. His proposed replacement, incentives for local people, did not work. People do not like small cash payments for what they see as a worsening of a place. However, they are much more welcoming of processes led by them that improve the place while sharing the benefits.

the marginal cost of adding capacity.¹⁹ It would be more efficient to charge more for such services, and use some of those revenues to make direct payments to those on low incomes that we wish to help.

It is easy to be misled by the name ‘planning system’ to think that the main role of the system is to plan. In fact most of the economic effects of the system are from its measures to stop people building – ‘development control’. Real planning of new master plans and infrastructure, in the sense that Abercrombie or other early planners would have recognized, accounts for a small fraction of the current system’s economic impact. And sadly, much of what we do positively ‘plan’ for is in deeply suboptimal nth-best locations or, in the case of some government *grands projets*, actually economically harmful.

The reason why the planning system has proven invulnerable to multiple attempts at radical reform is that its second role – control of development – is highly popular with the vast majority of voters, especially homeowners and those with secure tenancies. Thatcher, Blair and Cameron all expressed determination to fix planning but barely scratched the surface; that is a strong hint that there are fundamental political forces at work. People have been complaining about a shortage of land allocated for development since at least 1957, and Sir Peter Hall called for urgent green belt reform back in 1973.²⁰

Even without coordination problems, we need some land use rules to address externalities. Externalities are a classic case where economics teaches us that markets without intervention can fail to produce the best and most efficient outcome for society. Some who campaign for more freedom can sometimes forget that externalities exist. But development almost always produces externalities.

Imagine the owner of the whole of a pretty village – just one of many similar villages, so that economists would say there is perfect competition. A builder offers to build an ugly concrete block of flats in the middle of the village. The value of the flats would mean a large profit over the cost of building the block; but spoiling the beauty of the village would make many people want to leave, and the total value of the other homes in the village would drop by more than the profit on the new block. A sensible landowner will not go ahead, and economics tells us that is the *efficient outcome*. An even more sensible owner will build some beautiful cottages on some adjacent scrubland instead, adding value overall.

Similarly, if the same village were owned instead by many people, then to allow a single landowner to build that ugly concrete building, creating externalities of ugliness that reduce the overall value of that village, is economically inefficient.

¹⁹ Barrett, Silviya, Martin Wedderburn, and Erica Belcher. “Green Light: Next Generation Road User Charging for a Healthier, More Liveable London.” London: *Centre for London*, April 2019. <https://www.centreforlondon.org/publication/road-user-charging/>.

²⁰ Hall, Peter. “The Containment of Urban England.” *The Geographical Journal* 140, no. 3 (October 1974): 386. <https://doi.org/10.2307/1796533>.

The same could apply to a new low-rise building that replaces a park, or a thoughtlessly placed wall that blocks someone else's window.

Part of planning rules are there for an economic purpose, like the tort of nuisance or the common law right to light – or indeed the law of trespass. The reason why it is confusing is because the planning rights are currently held by the government, and individual residents cannot make choices about them – at least, at the moment.

When a single large landowner develops in the middle of their land, there are few externalities. But when many different homeowners live near each other, the externalities of development can be huge.

In a system of fragmented ownership, the development controls of the planning system play the part of that single landowner, weighing up the costs and benefits. The White Paper recognizes that control of those spillover effects is important.

As British Nobel laureate Ronald Coase explained, *in theory* economic actors can negotiate with each other so that the efficient outcome is achieved, regardless of the initial definition and allocation of rights. Residents can club together and pay another landowner not to build anything that will block their view, and that occasionally happens.²¹

But Coase's point was that *in practice* the transaction costs of such negotiation are often prohibitively high, not least because of free riding and other coordination problems.²² That is why the common law evolved property rights such as trespass, nuisance and rights to light to protect against externalities – because those rights are more efficient than millions of individual landowners having to negotiate protective covenants with everyone else.

In another seminal paper, the economist Harold Demsetz explained that property rights will tend to be created when it is more efficient to do so: when the welfare benefits from such a right, including reduced spillover effects and reduced transaction costs, outweigh the costs of imposing and enforcing the right.²³

The 1947 system created what institutional economists would call *de facto* property rights that let residents prevent development near them.²⁴ It has endured because those protections are more efficient than a free for all, where many property owners would have to try to coordinate to impose covenants that were never there originally, to restrict development. When land is not in fragmented ownership, we can see that such covenants are often efficient, in examples ranging from great

21 Goodman, J. David. "How Much Is a View Worth in Manhattan? Try \$11 Million." *New York Times*. July 22, 2019. <https://www.nytimes.com/2019/07/22/nyregion/manhattan-real-estate-views-air-rights.html>.

22 In some cases they would require the invention of a time machine.

23 Demsetz, Harold. "Toward a Theory of Property Rights." *The American Economic Review* 57, no. 2 (1967): 347–59. <http://www.jstor.org/stable/1821637>.

24 John Myers. "Fixing Urban Planning with Ostrom: Strategies for Existing Cities to Adopt Polycentric, Bottom-Up Regulation of Land Use." Mercatus Research, Mercatus Center at George Mason University, Arlington, VA, February 2020.

estates such as Bloomsbury or Pimlico, to Homeowners' Associations across the US which impose strict contractual controls on alterations by homeowners. But creating those covenants where there is already fragmented ownership is generally almost impossible.

Few realize that the planning system is effectively a system of property rights because spatial economists generally do not specialize in institutional economics, and English lawyers are very focused on formal legal distinctions rather than economic fundamentals. It is harder to recognize because the de facto property rights created by the planning system are based partly on political processes, are informal and are not even alienable by the residents.

But these de facto property rights have a similar effect to normal property rights, with one crucial distinction: they are much less efficient than normal rights, because they are not alienable.

ASI Fellow Sam Bowman has explained how that lack of alienability is the fundamental problem, so homeowners cannot negotiate nearly win-win deals that create more homes while sharing the benefits.²⁵ Street and block votes provide a way to do exactly that.

Where the current planning system fails is where the common law succeeded so well with other true legal rights: in allowing easy negotiation to find win-win outcomes.

I can allow you to drive across my land for a fee, or waive my ancient rights to light so that you can develop near me if you agree to compensate me. Alienable private rights let two people do a deal so that they are both better off afterwards. That is the way markets work.

If you deploy your rights against trespass, and refuse to let me stay in your house rent free, you might be lacking in charity, but you are not a NIMBY. If, based on private rights against nuisance, you refuse to let me emit noxious chemicals next door without compensating you, you are not a NIMBY. If you wield your right to light and refuse to let me build a wall in front of your only window without an adequate payment to you, you are not a NIMBY.

In all of those cases, the market has weighed the benefit to me (reflected in what I'm offering to pay you in exchange) against the cost to you, and found it inefficient for the action to happen.

The confusion and the perceived NIMBY problem arise in planning because the rights protecting people against development are neither explicit, well defined, certain nor alienable, so people cannot negotiate to find win-win outcomes, as they do with other property rights. Allowing people more easily to waive those protections

²⁵ Bowman, Sam. "The Importance of Alienability." *Consumer Surplus* (blog). Accessed October 23, 2020. <https://sambowman.substack.com/p/the-importance-of-alienability>.

in exchange for benefits to them cannot make the situation any worse. In many expensive areas, we build no new homes at all. Even a few would be a step forward.

In principle, trespass is analogous to a complete ban on all development: no-one at all is allowed to enter your home without your permission. Just as private rights of trespass and nuisance function perfectly well to allow negotiation to find win-win outcomes and achieve economic growth, letting small groups of people negotiate about what development to allow should allow far more development, and more growth.

We can no more permanently fix planning with government targets alone than you could take away individual property rights against trespass and centrally determine who will be allowed into someone's home. This is a system of property rights, not a factory. Using the model for the latter to try to fix the former will not be a long term solution.

After the Soviet experiment, no-one would propose that the State should nationalize rights against trespass, but imagine that it did. You would immediately have problems: neither your intended guests nor a plumber could enter your home, because they would be fined or locked up.

People would rapidly realize the need for a process whereby you could apply to the state for permission to enter someone's home. The state would probably start to allow comments from the current residents on each application. Over time, perhaps standard 'permitted trespass rights' would be set up so that registered tradespeople, close relatives, the fire service and the police could enter without an application. Eventually someone might invent a neighbourhood trespass planning regime, where neighbourhoods could specify which groups could enter each others' homes. But if thousands of people are involved, those additional permissions would be very limited, because they would be almost impossible to agree.

Similarly, neighbourhood planning has not enabled many more homes. Thousands of people find it very hard to negotiate win-win outcomes in very complex and heterogeneous situations.

Going back to our thought experiment in rights against trespass, perhaps at some point the Government would decide to impose targets on local authorities for how many people were to be allowed into people's homes, to try to get the system working better.

Over time it would become clear that it would be more efficient to assign explicit rights to small groups to decide who could enter each others' homes, and eventually it would become obvious that the size of that group should be one household. The system of private rights against trespass would be restored.

The 1947 system created a new, state-owned right to prohibit development, but it is in practice normally wielded as local voters wish. In the 70 years since then, residents have acquired expectations of being able to stop development near them – es-

pecially in conservation areas, which is where wealthier and hence more politically influential people generally live. You cannot just take those de facto rights of protection away from them all without a massive backlash; and allowing a total development free for all would almost certainly be inefficient. The fact that developers of large sites in the US generally set up a homeowners' association for that area, with contractual controls on what each homeowner can build in future, demonstrates that having some land use rules is efficient.

The analogy with trespass is not exact, because trespass generally only affects one landowner. Development often affects dozens or thousands of residents. In practice, giving veto rights to everyone would result in gridlock: some people do not want any change, no matter what the price. That is why the common law of nuisance, where many people are also often affected, sometimes awarded damages rather than injunctions.

True Pareto improvements, where everyone considers themselves better off, may be impossible. But no democracy can function by giving everyone a veto over every change – particularly where there is no such formal veto right to begin with, as in planning. So long as we can be confident that no-one will be financially worse off, and overall welfare will be massively improved, we should allow decisions by supermajority.

The key to efficient dealing is to allow approvals by the smallest group that is significantly affected by the externalities of development. We have suggested streets and blocks because infill development on one street rarely affects people on another street; and moderate development within a block of houses surrounded by streets rarely affects people outside that block.

Studies of public policy show that, even where large-scale legislative reform has been politically impossible, substantial change can be achieved by 'layering' – the addition of alternative mechanisms that allow change without upsetting vested interest groups.²⁶ Street and block votes are a potential example of that.

TARGETS

The current Government, with its large majority and firm determination to fix the system, may have a once in a lifetime opportunity for reform that will be wasted if we do not fix the underlying systemic problem.

The target system will result in a short term increase in housing production. But if much of that were to be ugly and unpopular development with no local mandate, approved via the presumption in favour when housing targets are missed, the backlash would be severe and the targets would not last long. Unlike the 'self-

²⁶ Streeck, Wolfgang, and Kathleen Ann Thelen, eds. *Beyond Continuity: Institutional Change in Advanced Political Economies*. Oxford ; New York: Oxford University Press, 2005. See e.g. page 41: "crucial forms of policy change have in fact taken place ... The key mechanism of change is not large-scale legislative reforms, but a set of alternative, and often less visible, processes of adaptation [including] 'layering'".

reinforcing' controls on spillover effects imposed by the planning system, targets can be what the field of public policy describes as a 'self-undermining' policy.²⁷

No government can for the long term ram through high housing production in the teeth of the opposition of two-thirds of the voters. Without other reforms in addition to targets, to ensure continued high volumes, it is implausible that high targets will be maintained under a government with a smaller majority, or a different government. Of itself, the target approach is unlikely, alone, to constitute a complete and permanent solution.

Moreover, it is impossible to fix the problem through targets alone because no government would dare set a target big enough. 300,000 homes per year, even assuming we achieve it, is an increase in stock of only 1.3%, which is barely enough to keep up with increased demand through rising average incomes before accounting for 0.7% population growth. Given today's high prices, the system of land use rules that applied until the Second World War would have produced vastly more homes than 300,000 per year. We should be producing more like 500,000 or a million homes a year, given current prices.

Focusing housing production on expensive urban areas will help, but it does not begin to approach the scale of action needed to address the backlog from seventy years of producing too few homes, mainly in the wrong places. It will certainly not deliver the additional two percentage points in annual GDP growth for a decade that Professor Nicholas Crafts says is possible if we fixed the planning system.

We may well also build a few new towns and large urban extensions through Development Consent Orders and Development Corporations before the backlash hits, but that will not be a durable solution at anywhere near the required scale. New towns were essentially stopped because they were so unpopular.

The underlying problem is that, unlike all the other laws governing property and markets, the planning system is not designed to achieve win-win outcomes that align incentives with control and improve overall wealth.

To think we can permanently fix this particular problem just with targets is the wrong mental model. The planning system is there because it prevents things being done that negatively affect people's homes, just like the law of trespass is there to stop unwanted visitors.

BROKEN INCENTIVES

The deepest thinkers who have looked at this problem – William Fischel, Robert Ellickson, Alex Morton, Robert Nelson and Mark Pennington – have all suggested fixing the system to allow win-win outcomes.

²⁷ Jacobs, Alan M., and R. Kent Weaver. "When Policies Undo Themselves: Self-Undermining Feedback as a Source of Policy Change: Self-Undermining Feedback." *Governance* 28, no. 4 (October 2015): 441–57. <https://doi.org/10.1111/gove.12101>.

As doubtless the economists at the Treasury will understand, if a housing shortage is inefficient then by definition there must be a proposed development and a distribution of the benefits that would win the support of at least a majority of local people. Otherwise, the housing shortage may be *unfair*, but it is not *inefficient* in technical economic terms.

So if we believe that the current housing shortage has reduced real GDP, as we do, we must believe that it is possible to design developments that will be popular with local people if they share enough of the benefits. And yet we have failed to fix the incentives in the planning system for seventy years. Countries such as Switzerland have a more responsive housing supply because local government and local people have much stronger incentives to allow more housing.

The incentives in the current English planning system are completely broken. Several councils have told us that they actively seek to avoid more homes suitable for older people because they are concerned about liability for social care costs. Councils are often at best lukewarm about small site development because they perceive that the costs outweigh the benefits.

But simple compensation has been tried and shown to be unworkable because people see it as a bribe to accept a worsening of the place, and many of them put extremely high reserve prices on such perceived deterioration. Putting them in the lead allows them to pick options that benefit them. As they are in control, they are much more likely to consider that the place will thereby be improved. Proposed change can often be cheaply tweaked so that it improves the area rather than worsening it, but compensation schemes provide no feedback loops to allow the least expensive tweaks to be found.

Street and block votes provide a powerful way to ensure enormous benefits for local people, with substantial cash flows for new infrastructure and other important aspects. That will address all of the incentive problems.

There are substantial concerns about the housing reforms driven by the notion that targets are being forced on unwilling local councils combined with lessened local discretion. This could drive opposition to the proposed reforms. If the reforms are to be sustained, it will be essential to combine them with policies to build public support for building more houses.

If the Government wants to increase the supply of housing in high price areas while maintaining public support, they should:

IMPLEMENT STREET AND BLOCK VOTES

The critical obstacle to more housing is politics: understandably, many homeowners do not want unsuitable new developments near them. Happily, the White Paper's interest in microdemocracy such as 'street votes' and 'block votes' provides a way forward to make these objections tractable through democratic mechanisms that allow new housing to go where locals see sufficient benefits to accept it. Those can deliver plentiful housing and hugely exceed the new housing targets, adding millions of great new homes, without any of those political problems.

There is now a broad consensus among think tanks who are open to the benefits of markets that a planning system that lets local people allow additional development where they see benefits for them would produce much more housing.²⁸ That interest is shared by not only the Centre for Cities and Create Streets but the Royal Town Planning Institute and the effective giving organisation Founders Pledge.²⁹

Following the recommendations of the Building Better Building Beautiful Commission, the White Paper envisages that residents will be able to participate in setting the design codes for their area. That can be done in a granular and sensitive way, down to the level of a single street. If residents of a small area such as a street or block can set their own design code via a 'street vote' or 'block vote', they can

28 Myers, John. *Yes In My Back Yard – How to End the Housing Crisis, Boost the Economy and Win More Votes*. London: ASI (Research) Ltd, 2017. Rees-Mogg, Jacob, and Radomir Tylecote. "Raising the Roof." *IEA Current Controversies*. London: Institute of Economic Affairs, July 2019. <https://iea.org.uk/media/new-iea-report-co-authored-by-jacob-rees-mogg-mp-sets-out-proposals-to-fix-the-uk-housing-market/>. Morton, Alex. *Cities for Growth: Solutions to Our Planning Problems*. London: Policy Exchange, 2011. (Morton is now Head of Policy at the Centre for Policy Studies.) Southwood, Ben. "The Government's Housing Plans Need to Be Refined – Not Scrapped. They Will Work If the Detail Is Got Right." *Conservative Home*, September 7, 2020. <https://www.conservativehome.com/platform/2020/09/ben-southwood-the-governments-housing-plans-are-right-in-principle-and-will-work-in-practice-if-the-details-are-got-right.html>. (Southwood is Head of Housing, Transport, and Urban Space at Policy Exchange.) Meakin, Rory. "Planning for Intergenerational Unfairness." London: Taxpayers' Alliance, January 2019. https://www.taxpayersalliance.com/tpa_report_on_inter_generational_unfairness_2018.

29 Breach, Anthony, and Elena Magrini. "Sleepy Suburbs." London, England: Centre for Cities, March 24, 2020. <https://www.centreforcities.org/reader/sleepy-suburbs/>. Kenny, Tom, and James Harris. "Priorities for Planning Reform in England." London, England: Royal Town Planning Institute, April 23, 2020. <https://www.rtpi.org.uk/policy/2020/april/priorities-for-planning-reform-in-england/>. Boys Smith, Nicholas, and Kieran Toms. "From NIMBY to YIMBY: How to Win Votes by Building More Homes." London: Create Streets, April 18, 2018. Clare, Stephen. "Cause Area Report: Housing Affordability in England." Founders Pledge, April 2020. <https://founderspledge.com/stories/housing-affordability-in-england-executive-summary>.

ensure high quality and, if they choose, graceful densification. Importantly, if a street opts for greater density all the residents can benefit from capital gain in the value of their property. This inverts the status quo, where the approval of a planning application benefits a single property owner while other nearby residents potentially have reduced amenity, leading to the ‘Not In My Backyard’ (NIMBY) phenomenon.

The idea is that a supermajority of residents, say 60%, can vote to set a design code setting out what additional development will be permitted on their street or block. For these purposes, a ‘street’ is a length of road bounded by the end of a street or a crossroads, so that there is a natural firebreak to reduce effects on other residents, and a ‘block’ is the set of adjoining plots bounded by streets on all sides.

In each case, extensive rules as to daylight, parking, setbacks and other matters would protect other residents. For blocks, the existing facades facing the street would be required to be preserved, so that residents on other blocks would not be affected.³⁰

Street and block votes allow people to negotiate and trade their rights to stop development. This can lead to high quality development that improves places and ensures plentiful housing. In other words, it will achieve more development with community support. This win-win policy provides a durable way to fix the housing crisis that has alluded policymakers for half a century.

Even if there are many streets with individuals strongly resistant to change, the subsequent buyers of those properties will likely be supporters of street and block votes because they will value the property more highly in light of the possibility of a street or block vote. In that sense, these sorts of changes to allow bottom-up negotiation represent a potential long-term systemic fix, unlike almost every other reform proposal.

At a time when high streets facing more headwinds than ever and when patterns of employment are radically shifting, strengthening and improving our towns and suburbs is vital.

30 Myers, John. *Yes In My Back Yard – How to End the Housing Crisis, Boost the Economy and Win More Votes*. London: ASI (Research) Ltd, 2017. John Myers. “Fixing Urban Planning with Ostrom: Strategies for Existing Cities to Adopt Polycentric, Bottom-Up Regulation of Land Use.” Mercatus Research, Mercatus Center at George Mason University, Arlington, VA, February 2020.

FIGURE 1: A SUBURB WITH MORE POTENTIAL

Source: Google Maps

FIGURE 2: GENTLE DENSITY WITH TERRACED HOUSING

Source: Google Maps

Impact: millions more homes

PHYSICAL POTENTIAL

The Outer London Commission, established by the Prime Minister when he was Mayor of London, found there is enormous potential for more homes in many suburban areas.³¹ Building those homes would support struggling local shops, cafes

³¹ Outer London Commission. "Sixth Report – Removing the Barriers to Housing Delivery." London:

and restaurants, justify expanding public transport to underserved communities, and make travelling without a car much easier, helping the environment.

FIGURE 4: A SUBURBAN ALLEYWAY



Source: Google Maps

FIGURE 5: GENTLE DENSITY WITH A MEWS SURROUNDED BY STREETS



Source: Google Maps

The built density in outer London is about five to ten times lower than popular and sought-after historic areas such as Georgian Bath, Edinburgh's New Town or

London’s Marylebone. A typical suburban semi-detached plot can easily add five times more housing, just by moving to comfortable densities with mid-rise terraced housing or mansion blocks. It does not require high rise towers.

Figure 5, Figure 6 and Figure 7 below are at approximately the same scale.

FIGURE 5: TYPICAL LOW SUBURBAN DENSITY IN LONDON



Source: Google Maps

FIGURE 6: TYPICAL LOW SUBURBAN DENSITY IN CAMBRIDGE



Source: Google Maps

FIGURE 7: POPULAR MIDRISE DENSITY NEAR MARYLEBONE HIGH STREET (SAME SCALE)



Source: Google Maps

There is almost limitless scope to add more housing well, but our current system was never designed to enable intensification of suburban areas owned by many different homeowners. It was designed, in the postwar era of declining cities, for compulsory purchases, slum clearance and redevelopment, and to decant populations away from existing towns and cities. It is no surprise that it is completely unequal to the task of strengthening existing suburbs, still less doing so with local consent. That was never the intention.

ECONOMIC POTENTIAL

The Supurbia proposals by the HTA firm led by Ben Derbyshire, the former head of the Royal Institute of British Architects, and by Savills, Lichfields and Pollard Thomas Edwards demonstrate that suburban intensification can be highly profitable, even with developments of only three storeys.³² Allowing five or six storeys and more efficient use of land that is currently concreted over, would make densification economic in large parts of almost every area with unaffordable housing.

SPEED OF DELIVERY

Those who know only of our existing top-down planning regime, where existing residents are pitted against new development, sometimes express scepticism that 60% of residents would agree on densification anywhere. There are plenty of counterexamples.

In England, twelve owners of terraces in leafy Primrose Hill agreed to add another storey to each of their properties – not only unanimously but simultaneously.³³ By

³² Derbyshire, Ben, Riette Oosthuizen, Andrew Bharrell, Yolande Barnes, and Pauline Roberts. "Supurbia – Semi-Permissive." London: HTA Design LLP, Pollard Thomas Edwards, Savills and Lichfields, 2015. <http://supurbia.info>.

³³ Mallett, Lee. "Room on Top: 12 Primrose Hill Neighbours Build on Their Roofs in New Homes Model That Could Offer Solution to Housing Crisis." Evening Standard. March 13, 2018. <https://www.eveningstandard.com/news/property/12-primrose-hill-neighbours-build-on-their-roofs-in-new-homes-model-that-could-offer-solution-to-housing-crisis>.

contrast, street and block votes will be much easier because only 60% need to agree, and no-one is forced to do anything. If the vote succeeds, homeowners are just receiving an additional planning permission for their property that they can use or not, as they choose. Even if they voted against, the additional value of their property from the permission will compensate them handsomely.

FIGURE 7: FITZROOFS – ADDITION OF MORE HOUSING IN PRIMROSE HILL



Historically, Hampstead, Soho, Covent Garden, and the centres of cities like Oxford were created by the demolition of humbler buildings. Much of central London is covered with Victorian or Edwardian buildings that replaced earlier structures. Often, the classical or traditional facades mean we do not realize. But that process of graceful densification has been all but frozen in our suburbs since 1947.

The OnTheRise project near Clapham Junction is even more striking because the residents unanimously agreed to demolish their existing block of eight flats and replace them with a bigger building holding twice as many homes.³⁴ Again, that is a much more demanding thing to achieve, because they all had to agree to demolition and to moving out at the same time.

[homesandproperty.co.uk/property-news/buying/new-homes/12-primrose-hill-neighbours-build-on-their-roofs-in-new-homes-model-that-could-offer-solution-to-a118516.html](https://www.homesandproperty.co.uk/property-news/buying/new-homes/12-primrose-hill-neighbours-build-on-their-roofs-in-new-homes-model-that-could-offer-solution-to-a118516.html).

34 Richardson, Vicky. ““If It Failed We’d All Lose”: Eight Clapham Neighbours Demolished Their Council Block, Rebuilt Their Homes at Double the Size — and Ingeniously Built Twice as Many to Pay for It.” Evening Standard, February 7, 2017, sec. Homes & Property. <https://www.homesandproperty.co.uk/property-news/buying/new-homes/if-it-failed-we-d-all-lose-eight-clapham-neighbours-demolished-their-council-block-rebuilt-their-a107891.html>.

Other countries including Israel, Japan,³⁵ Australia,³⁶ Hong Kong, Singapore,³⁷ and Canada,³⁸ have laws allowing apartment blocks to be redeveloped if a supermajority of the owners vote in favour. This includes the power to force dissenting residents to sell and move out, a much more drastic provision than street and block votes. One source told this author that the ‘Pinui Binui’ and ‘TAMA 38’ provisions accounted for over one-third of the gross new housing construction in Tel Aviv last year—an astonishingly high number.³⁹

As one author put it:⁴⁰

“Suppose a street of 1970s bungalows near a station in outer London voted themselves the right to turn into a five-storey Georgian-style terrace. At a stroke, every homeowner on the street would become an asset millionaire, at the same time as creating planning permission for hundreds of new homes and ordaining a shift to a more beautiful and sustainable urban form.”

Homeowners presented with the option to triple the value of their property overnight are often very interested. Of course, not all streets will vote in favour, but that is a feature rather than a bug. Street and block votes will help to concentrate change in those areas that are least averse to it. That is more economically efficient than imposing change on those who do not want it. Planners who advocate a one-size-fits-all, top-down approach have not read their welfare economics.

Plot assembly will not be hard. In some areas of twentieth-century suburban Cambridge or Oxford, for example, it would be economic to redevelop just two semi-detached bungalows on their own. The key is to allow sufficient volume of housing to be added on each plot to make demolition and rebuild highly profitable. Existing initiatives to allow densification, like Croydon’s Supplementary Planning Document on suburban design, have to be profoundly unambitious about potential height and density compared to, say, Marylebone, because they are imposing change on nearby residents who have neither consented nor been compensated and therefore often complain very loudly, to the extent of replacing the politicians in charge.⁴¹

35 Smith, Stephen. “En Bloc Condo Redevelopment in Japan and Israel,” February 7, 2012. <https://www.marketurbanism.com/2012/07/02/en-bloc-condo-redevelopment-in-japan-and-israel/>.

36 ‘Strata renewal’ in New South Wales

37 Zakiah, S., and H. Khadijah. “The En Bloc Sale Mechanism as a Method of Strata Scheme Termination and Urban Renewal: A Review,” 381–92. Penang, Malaysia, 2016. <https://doi.org/10.2495/SDP160321>.

38 Christudason, Alice. “Urban Rejuvenation through Collective (En Bloc) Sales in Singapore: Property Rights or Property Wrongs?” *Journal of Urban Regeneration and Renewal* 5(1) (2011): 51–64.

39 Conversation with Tal Alster and Alon Kahani, 11th June 2020.

40 Hughes, Samuel. “Scruton’s Housing Vision Is Finally Being Realised.” *The Spectator*, August 10, 2020. <https://www.spectator.co.uk/article/housing-reform-and-the-spirit-of-roger-scruton>.

41 Croydon Council. “Suburban Design Guide.” Supplementary Planning Document. Croydon: Croydon Council, April 1, 2019. <https://suburbandesign.croydon.gov.uk/>.

The shortage of housing in high cost places is not due to land banking. Because the flow of permissions is uncertain, larger developers rationally want a ‘buffer’ of guaranteed supply so that they will not have to leave expensive labour and equipment idle. In much the same way, a computer or phone will sometimes download a ‘buffer’ when streaming video, to avoid interruptions in the programme from an unreliable flow of data. Much land banking is really land buffering, to cope with an unpredictable supply of approvals.

That said, there are clear externalities from leaving sites undeveloped and often in an unattractive state for long periods of time. There are collective action problems when the completion of one site is needed to make other development viable. Voters and councils understandably feel annoyed when a site that has been approved for development after many hard-fought battles and compromises can take years for ground to be broken.

One way to price those externalities would be a modest graduated tax on land value, which the local authority would be free to impose on the undeveloped portion on any site from a period of, say, four years after unconditional permission was granted. That would provide authorities with a strong incentive to provide more unconditional permissions.

Importantly, it should only be for future site allocations and future permissions, to preserve existing expectations and avoid unnecessary increases in the cost of capital for development through a perception that the regime is unpredictable.

The tax could be assessed by the ‘Harberger’ method, where the landowner sets the value of the undeveloped portion of the site but with the proviso that the local authority can purchase the land at the price stated. This creates a strong incentive not to specify an undervalue.

That will not significantly improve supply, but it will reduce negative spillover effects from dead sites, and help to defuse the resentment that they generate, particularly in relation to housing targets.

PUBLISH TARGET ALLOCATIONS

Much of the current resistance to the proposed new housing targets comes from uncertainty. It is unclear what the targets will be in each area and many fear that they mean new developments being forced on them. Published third party assessments do not make the adjustments that the White Paper indicates will happen.⁴² That unhelpfully pushes some who are generally in favour of more and better housing into an unholy coalition with those who are in practice against any practical solution to the housing shortage.

⁴² Lichfields. “How Many Homes? The New Standard Method.” Accessed October 20, 2020. <https://lichfields.uk/grow-renew-protect-planning-for-the-future/how-many-homes-the-new-standard-method/>.

The Government should publish more detail on how its proposed new targets would work, including adjustments for constraints such as Green Belt, Metropolitan Open Land – much of which comprises irreplaceable parks – Conservation Areas and Areas of Outstanding Natural Beauty. That would allow those who are in favour of sensible change to support the proposals.

CONCLUSION

The Government should rapidly pilot community-led intensification through design codes set at the level of individual blocks and streets, to help achieve the targets in a popular and durable way. There are eye-watering economic incentives for existing homeowners to get involved, together with scope to add literally ten times as much housing with popular midrise layouts already familiar from places such as Marylebone or Bath.

Together with a modest, predictable tax on future sites that sit undeveloped for many years, and a detailed specification of the housing targets after adjustment for constraints, it will make the pill of planning reform much easier to swallow.

The sceptics tend to push solutions that have proven politically impossible for fifty years, or have failed to work well elsewhere. It is time to implement things with clear political viability and a clear potential path to more economically grounded ways of fixing the planning system once and for all.